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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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KIMBERLY-CLARK WORLDWIDE, INC.
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EXAMINER

HILL, LAURA C

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,368

Applicant(s)

VAN GOMPEL ET AL.

Examiner

Laura C. Hill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-64 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/18, 10/7 & 11/16/04</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the 'inner and outer surface' of the outer layer of claim 1 and the 'pleats' of claim 7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 1 is objected to because of the following informalities: the opening location is unclear by the language of an 'opening located in an internal position to the elastic inner layer perimeter'.

Appropriate correction is required.

Claim Interpretation

3. The 'outer layer' of claim 1, line 7 is interpreted to not have to be exclusively include an elastic or absorbent material.

4. The 'inner surface' of the outer layer in claim 1, line 7 may be either the body-facing or garment-side layer. The 'outer surface' of the outer layer may also be either the body-facing or garment-side layer.

5. The 'elastic inner layer perimeter' of claim 1, line 9 is interpreted to be the outermost perimeter around the elastic inner layer.

6. The 'opening located in an internal position to the elastic inner layer perimeter' of claim 1, line 10 is interpreted to mean that the opening can be located in any position relative to the elastic inner layer perimeter.

7. The 'fastener' of claim 1 is interpreted to include any element that has a surface and/or structure capable of securing multiple components together.

8. It is noted that the term 'extensible' means materials stretchable but not capable of returning to substantially their original length after a pulling force is removed while 'elastic' materials are stretchable and capable of returning to substantially their original

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length after a pulling force is removed as defined by the Applicant on page 5 of the specification.

9. The outer layer is 'liquid permeable' of claim 6 is interpreted to include a layer having the capability of absorbing any amount of liquid at room temperature.

10. The 'pleats' of claim 7 are interpreted to be a fold or any other change in the element surface, which provides a raised or indented portion.

11. The 'ear portions' of claim 43, lines 28-31 are interpreted to be any areas that include the fastening element.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-6, 8-11, 14-15, 21, 43-48, 50-53, and 56-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Freeland (US 4,990,147). Regarding claims 1-2 Freeland discloses disposable diaper 10 with a crotch region that connects the front and back waist regions (col. 2, ll. 23-25, 36-37, figure 1), the disposable diaper 10 further comprising:

A back sheet/outer layer 14 having an inner and outer surface (col. 2, line 53);

An elastic liner/inner layer 12, wherein the elastic liner/inner layer 12 has inner and outer surfaces and a perimeter and wherein the elastic liner/inner layer 12 defines passageway 22 with an aperture/opening for communication of waste materials and

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located in a position to the inner layer perimeter (col. 3, ll. 55-58, col. 4, ll. 43-49, figure 1);

Wherein the elastic liner/inner layer 12 is partially and preferably fully peripherally affixed to outer layer/back sheet 14 (col. 2, ll. 34-35); and

Wherein the inner surface of elastic inner layer 12 in the back waist region includes front and back ear portion areas with fasteners 42 that allows the diaper 10 to conform to the wearer (col. 5, ll. 44-46, figure 1). Freeland further discloses fasteners, or areas on the front waist regions capable of securing together with the fasteners 42 on the back waist region. It has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Regarding claims 3-5 Freeland discloses the garment as discussed above with respect to claim 1 and further discloses a urine impervious and flexible low-density polyethylene back sheet/outer layer capable of being extensible and elastic (col. 2, ll. 53-55 and 65). If a prior art structure is capable of performing the intended use as recited in the preamble, then it meets the claim. See, e.g., *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997).

Regarding claim 6 Freeland discloses using a low-density polyethylene (LDPE) sheet for back sheet/outer cover 14 as discussed above with respect to claim 1 that inherently is at least partially liquid-permeable. For a non-limiting example, LDPE has a water absorption of less than 0.015 over 24 hours, thus showing it is partially (though

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minimally) liquid-permeable (Goodfellow Material Properties website). The discovery of a previously unappreciated property of a prior art composition, or of a scientific explanation for the prior art's functioning, does not expressly disclose not render the old composition patentably new to the discoverer. *Atlas Powder Co. v. Ireco Inc.*, 190F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999). Thus the claiming of a new use, new function or unknown property which is inherently present in the prior art does not expressly disclose not necessarily make the claim patentable. *In re Best*, 562 F.2d 1252, 1254, 195 USPQ 430, 433 (CCPA 1977).

Regarding claims 8-10 Freeland discloses the garment as discussed above with respect to claim 1 and further discloses the elastic liner/inner layer 12 is elastic in the longitudinal and lateral directions (col. 5, ll. 19-21, col. 8, ll. 24-26).

Regarding claim 11 Freeland discloses a garment as discussed above with respect to claim 1 and further discloses a nonabsorbent elastic liner 12 (col. 3, ll. 47-49).

Regarding claim 14 Freeland discloses the garment with bonded outer layer as discussed above with respect to claim 1. Freeland further discloses the elastic liner/inner layer 12 is bonded to back sheet/outer layer using any well known method such as adhesive affixing, thermal sealing or ultrasonic welding (col. 4, ll. 36-39).

Regarding claim 15 Freeland discloses the garment as discussed above with respect to claim 1. Freeland further discloses by making the liner/inner layer 12 shorter than the back sheet/outer layer 14, the diaper 10 will bow concave towards the liner 12, creating a frame suitable to accommodate the arcuate posterior of the wearer (col. 5, ll. 10-14).

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Regarding claim 21 Freeland discloses the front waist region with fastener 42 as discussed above with respect to claim 1. Freeland further discloses the fastener has a length less than the front center panel length (figure 1).

Regarding claims 43-44 Freeland discloses a disposable diaper 10 with a crotch region that connects the front and back waist regions (col. 2, ll. 23-25, 36-37, figure 1), the disposable diaper 10 further comprising:

A back sheet/outer layer 14 having an inner and outer surface (col. 2, line 53);

An elastic liner/inner layer 12, wherein the elastic liner/inner layer 12 has inner and outer surfaces and a perimeter and wherein the elastic liner/inner layer 12 defines passageway 22 with an aperture/opening for communication of waste materials and located in a position to the inner layer perimeter (col. 3, ll. 55-58, col. 4, ll. 43-49, figure 1);

Wherein the elastic liner/inner layer 12 is partially and preferably fully peripherally affixed to outer layer/back sheet 14 (col. 2, ll. 34-35); and

Wherein the inner surface of elastic inner layer 12 in the back waist region includes front and back ear portion areas with fasteners 42 that allows the diaper 10 to conform to the wearer (col. 5, ll. 44-46, figure 1).

Regarding claims 45-47 Freeland discloses the garment as discussed above with respect to claim 43 and further discloses a urine impervious and flexible low-density polyethylene back sheet/outer layer capable of being extensible and elastic (col. 2, ll. 53-55 and 65). If a prior art structure is capable of performing the intended use as

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recited in the preamble, then it meets the claim. See, e.g., *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997).

Regarding claims 48 Freeland discloses the garment as discussed above with respect to claim 43 and further discloses a liquid permeable outer layer as discussed above with respect to claim 6.

Regarding claims 50-52 Freeland discloses the garment as discussed above with respect to claim 43 and further discloses the elastic liner/inner layer 12 is elastic in the longitudinal and lateral directions (col. 5, ll. 19-21, col. 8, ll. 24-26).

Regarding claim 53 Freeland discloses the garment as discussed above with respect to claim 43 and further discloses a nonabsorbent elastic liner 12 as discussed in rejected claim 11 (col. 3, ll. 47-49).

Regarding claim 56 Freeland discloses the garment with bonded outer layer as discussed above with respect to claim 43. Freeland further discloses the elastic liner/inner layer 12 is bonded to back sheet/outer layer using any well known method such as adhesive affixing, thermal sealing or ultrasonic welding (col. 4, ll. 36-39).

Regarding claim 57 Freeland discloses the garment as discussed above with respect to claim 43. Freeland further discloses by making the liner/inner layer 12 shorter than the back sheet/outer layer 14, the diaper 10 will bow concave towards the liner 12, creating a frame suitable to accommodate the arcuate posterior of the wearer (col. 5, ll. 10-14).

13. Claims 1, 3, 12, and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Blenke et al. (US 6,129,720). Regarding claims 1, 3 and 12 Blenke et al. discloses

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absorbent article 8 with outer layer 26 secured to extensible body side liner/elastic inner layer 24, fastening tabs 20, and an elastic body side liner/inner layer 24 made with an opening in the form of an apertured plastic film 22 (col. 4, ll. 20-25, col. 5, ll. 1-3, ll. 15-17, col. 6, ll. 65-col. 7, line 2, col. 7, ll. 18-22). Blenke et al. further discloses an outer cover 26 capable of being extended in a C-direction and body side liner/ inner layer 24 which is a stretch-bonded laminate containing at least two layers (col. 8, ll. 25-28, col. 7, ll. 60-66).

Regarding claim 54 Blenke et al. discloses the absorbent article 8 as discussed above with respect to claim 1 and further discloses multiple layered stretch-bonded laminate as discussed above with respect to claim 12.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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14. Claims 13, 16-20, 55, 58-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeland (US 4,990,147). Regarding claim 13 Freeland discloses the garment with an opening as discussed above with respect to claim 1. Freeland further discloses the opening has a length of 4-6.5 cm and a width of 1.5-6 cm while the back sheet/outer layer has a length of 45 cm and width of 20 cm (col. 66-col. 3, line 4 and col. 4, ll. 65-67). Freeland does not expressly disclose the disposable garment length opening percentages. It would be obvious to one of ordinary skill in the art at the time the invention was made to modify Freeland to include the length opening percentages claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch and Slaney*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claims 16 and 58 Freeland discloses the garment with a shorter inner layer 12 length that creates a frame for the user as discussed above with respect to claims 1 and 43. Freeland does not expressly disclose the outer layer width is greater than the elastic inner layer width. It would be obvious to one of ordinary skill in the art at the time the invention was made to modify Freeland to include a smaller inner layer width since Freeland discloses a disposable absorbent article with an inner elastic layer having smaller dimensions for conforming to the body of the user.

Regarding claims 17 and 59 Freeland discloses the perimeter bonded elastic inner layer 12 as discussed above with respect to claims 1 and 43. Freeland does not expressly disclose the percentage of bonded to unbonded area. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

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modify Freeland with the range percentage of bonded to unbonded area, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch and Slaney*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 18 Freeland discloses the garment with elastic inner layer 12 and back sheet/outer layer 14 that conforms to the user as discussed above with respect to claim 1. Freeland further discloses the liner 12 has an inelastic area at each end of the diaper to reduce liner wrinkling, and thus provides more comfort to the user and reduced leakage around the waist (col. 5, ll. 3-10). Freeland does not expressly disclose elastic inner layer or outer layer retraction values. It would be obvious to one of ordinary skill in the art at the time the invention was made to modify Freeland with retraction values since Freeland a disposable absorbent garment with layers to reduce leakage and provide user comfort.

Regarding claims 19 and 61 Freeland discloses the front waist region fastener as discussed above with respect to claims 1 and 43. Freeland does not expressly disclose a crotch-to-fastener angle range. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Freeland with the crotch-to-fastener angle range claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch and Slaney*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claims 20 and 62 Freeland discloses the front waist region as discussed above with respect to claims 1 and 43. Freeland further discloses a front

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center panel area contained within the front waist region (figure 1). Freeland does not expressly disclose a front panel length. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Freeland to include a front panel length since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch and Slaney*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 55 Freeland discloses the garment with an opening as discussed above with respect to claim 43. Freeland further discloses the opening has a length of 4-6.5 cm and a width of 1.5-6 cm while the back sheet/outer layer has a length of 45 cm and width of 20 cm (col. 66-col. 3, line 4 and col. 4, ll. 65-67). Freeland does not expressly disclose the disposable garment length opening percentages. It would be obvious to one of ordinary skill in the art at the time the invention was made to modify Freeland to include the length opening percentages claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch and Slaney*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 60 Freeland discloses the garment with elastic inner layer 12 and back sheet/outer layer 14 that conforms to the user as discussed above with respect to claims 43 and 57. Freeland further discloses the liner 12 has an inelastic area at each end of the diaper to reduce liner wrinkling, and thus provides more comfort to the user and reduced leakage around the waist (col. 5, ll. 3-10). Freeland does not expressly disclose elastic inner layer or outer layer retraction values. It would be obvious to one of ordinary skill in the art at the time the invention was made to modify

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Freeland with retraction values since Freeland a disposable absorbent garment with layers to reduce leakage and provide user comfort.

Regarding claim 63 Freeland discloses fastener 42 as discussed above with respect to claim 43 and further discloses the fastener length as discussed above with respect to claim 21.

Regarding claim 64 Freeland discloses the disposable garment with length openings, bonded area percentages and ear portions as discussed above with respect to claims 1, 13-14, 17, and 43.

15. Claims 22-27 and 29-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeland (US 4,990,147) as applied to claim 1 above, and further in view of Blenke et al. (US 6,129,720). Regarding claim 22 Freeland discloses a disposable diaper 10 with an elastic inner layer 12 perimeter bonded to an outer layer 14 and fasteners 42 as discussed above with respect to claims 1-2. Freeland further discloses an absorbent core/assembly 18 positioned between the outer layer 12 and elastic inner layer 14, wherein the absorbent core/assembly 18 includes an envelope/top sheet 20 (col. 3, ll. 36-39, figure 2). Freeland does not expressly disclose the absorbent assembly includes core and barrier layers. Blenke et al. discloses the disposable garment 8 as discussed above with respect to claim 1. Blenke et al. further discloses absorbent assembly 38 located between body side liner 24 and outer cover 26 and includes an extensible layer/top sheet 42, an absorbent core 44, and a barrier tissue layer 40 (col. 4, ll. 39-44). Freeland and Blenke et al. are analogous art because they are in the same field of endeavor; absorbent articles with bonded elastic outer

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covers. It would be obvious to one of ordinary skill in the art at the time the invention was made to modify the absorbent assembly of Freeland with the multiple layered absorbent assembly of Blenke et al., thus providing an absorbent assembly with top sheet, core and barrier layers.

Regarding claims 23-27 Freeland/Blenke et al. disclose a disposable garment as discussed above with respect to claim 22. Freeland discloses an extensible, elastic, impermeable and permeable outer layer bonded to the elastic inner layer as discussed above with respect to claims 2-6.

Regarding claims 29-31 Freeland/Blenke et al. disclose a disposable garment as discussed above with respect to claim 22. Freeland discloses an elastic inner layer that is elastic in both the longitudinal and lateral direction as discussed above with respect to claims 8-10.

Regarding claims 32-35 Freeland/Blenke et al. disclose a disposable garment as discussed above with respect to claim 22. Freeland discloses the laminate impermeable elastic inner layer 12 and opening percentages as discussed above with respect to claims 11-14.

Regarding claim 36 Freeland/Blenke et al. disclose a disposable garment as discussed above with respect to claim 22. Blenke et al. discloses a laminate elastic inner layer 24 as discussed above with respect to claim 15.

Regarding claims 37-40 Freeland/Blenke et al. disclose a disposable garment as discussed above with respect to claim 22. Freeland discloses a elastic inner layer 24

width, percentage of bonded to unbonded area, retraction values, and crotch-to-fastener angle as discussed above with respect to claims 16-19.

Regarding claims 41-42 Freeland/Blenke et al. disclose a disposable garment as discussed above with respect to claim 22. Blenke et al. discloses a front center panel length and fastener length as discussed above with respect to claims 15-16.

16. Claims 7 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeland (US 4,990,147) as applied to claims 1 and 43 above, and further in view of Sauer (US 5,957,907). Regarding claim 7 Freeland discloses the disposable diaper 10 with back sheet/outer layer 14 as discussed above with respect to claim 1. Freeland does not expressly disclose the outer layer has one or more pleats. Sauer discloses disposable diaper 20 with impermeable outer cover 32, elastic liquid permeable body side liner 34, and an opening 60 in elastic liner 34 to receive fecal exudates and isolate a portion of the exudates from the wearer's skin (col. 3, line 56, col. 4, ll. 8-16, col. 10, ll. 65-67). Sauer further discloses outer cover 32 may be pleated/embossed or otherwise provided with a matte finish to provide a more aesthetically pleasing appearance (col. 6, line 67-col. 7, line 2). Freeland and Sauer are analogous art because they solve the same problem; receiving and containing body exudates through an opening to prevent exudates contact with user's skin. It would be obvious to one of ordinary skill in the art at the time the invention was made to modify the outer cover of Freeland with the embossment/pleating of Sauer, thus providing an outer layer having one or more pleats.

Regarding claim 49 Freeland discloses the disposable diaper 10 with back sheet/outer layer 14 as discussed above with respect to claim 43. Freeland/Sauer disclose the pleated outer layer as discussed above with respect to claim 7.

17. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeland (US 4,990,147) as applied to claim 22 above, and further in view of Blenke et al. (US 6,129,720), and further in view of Sauer (US 5,957,907). Freeland/Blenke et al. disclose the garment having a multiple layered absorbent assembly as discussed above with respect to claim 22. Freeland/Sauer disclose the pleated outer layer as discussed above with respect to claim 7. Freeland/Blenke et al./Sauer are analogous art because they are all in the same field of endeavor; disposable absorbent articles for the containment of body exudates with elastic layers for improved fit. It would be obvious to one of ordinary skill in the art at the time the invention was made to combine the multiple layered absorbent assembly of Freeland/Blenke et al. with the pleated outer layer of Freeland/Sauer, thus providing a disposable absorbent garment having a pleated outer layer.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laura C. Hill
Examiner
Art Unit 3761

LCH



TATYANA ZALUKAEVA
PRIMARY EXAMINER

